

IOWA FINANCE AUTHORITY[265]

Adopted and Filed Emergency After Notice

Rule making related to first amended 9% qualified allocation plan (QAP)

The Iowa Finance Authority hereby amends Chapter 12, “Low-Income Housing Tax Credits,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code section 16.5.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 16.35, Internal Revenue Code section 42, and Pub. L. No. 116-260.

Purpose and Summary

The Authority has been designated as the housing credit agency for the allowance of low-income housing credits under the state housing credit ceiling. The Consolidated Appropriations Act of 2021 allocates disaster tax credits under the low-income housing tax credit program for 12 Iowa counties impacted by the August 2020 derecho (i.e., the derecho disaster set-aside credits). To allow developers to apply for derecho disaster set-aside credits as part of the 2021 round of tax credits, the Authority has adopted an amendment to the 2020-21 9% QAP to be known as the First Amended 9% QAP.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on February 24, 2021, as **ARC 5468C**. A virtual public hearing was held on March 16, 2021, at 10 a.m. The Authority received comments at the public hearing; however, the comments were suggestions to increase the tax credit cap per unit based on recent increases in construction costs. The Authority declined to amend the QAP as suggested. The Authority instead addressed the concern about rising construction costs by revising the QAP to expand the use of HOME funds to all eligible projects. This revision to the QAP allows developers to close the financing gap and complete eligible projects.

The Authority received a written comment similar to the comments received at the public hearing. The written comment also suggested increasing the tax credit cap per unit based on recent increases in construction costs. The Authority addressed this comment as described above.

No changes from the Notice have been made.

Reason for Waiver of Normal Effective Date

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Authority finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on May 28, 2021, because the amendments incorporate the derecho disaster set-aside tax credit allocation, thereby increasing the amount of tax credits available to produce new housing units in counties impacted by the August 2020 derecho.

Adoption of Rule Making

This rule making was adopted by the Authority on April 7, 2021.

Fiscal Impact

The Authority has been allocated an additional authority for \$4.2 million in disaster tax credits under the Low-Income Housing Tax Credit Program (LIHTC) for the 12 Iowa counties impacted by the derecho.

Jobs Impact

After analysis and review of this rule making, the impact on jobs is expected to be consistent with the impact of previous years' QAPs. The LIHTC has had a substantial positive impact on job creation in Iowa, creating many jobs annually in the construction, finance, and property management fields, among others.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 265—Chapter 18.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making became effective on May 28, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 12.1(2) as follows:

12.1(2) *Nine percent qualified allocation plan.* The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program 2020-21 9% Qualified Allocation Plan ("9% QAP") shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits awarded in 2020, consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The qualified allocation plan titled Iowa Finance Authority Low-Income Housing Tax Credit Program 2020-21 First Amended 9% Qualified Allocation Plan ("first amended 9% QAP") shall be the qualified allocation plan for the allocation of 9 percent low-income housing tax credits awarded in 2021, consistent with IRC Section 42 and the applicable Treasury regulations and Iowa Code section 16.35. The 9% QAP is and the first amended 9% QAP are incorporated by reference pursuant to Iowa Code section 17A.6 and 265—subrules 17.4(2) and 17.12(2). The 9% QAP does not include any amendments or editions created subsequent to November 6, 2019. The first amended 9% QAP does not include any amendments or editions created subsequent to February 3, 2021.

ITEM 2. Amend subrule 12.2(2) as follows:

12.2(2) *9% QAP.* The 9% QAP and the first amended 9% QAP can be reviewed and copied in its their entirety on the authority's website at www.iowafinanceauthority.gov www.iowafinance.com. Copies of the 9% QAP and the first amended 9% QAP, the application, and all related attachments and exhibits shall be deposited with the administrative rules coordinator and at the state law library and shall be available on the authority's website. The 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of November 6, 2019. The first amended 9% QAP incorporates by reference IRC Section 42 and the regulations in effect as of February 3, 2021. Additionally, both the 9% QAP incorporates and the first amended 9% QAP incorporate by reference Iowa Code section 16.35. These documents are

available from the state law library, and information about these statutes, regulations and rules is on the authority's website.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/16/21.